

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

AMERICAN CIVIL LIBERTIES UNION, and
AMERICAN CIVIL LIBERTIES UNION OF
MASSACHUSETTS,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
JUSTICE, FEDERAL BUREAU OF
INVESTIGATION, and DRUG
ENFORCEMENT ADMINISTRATION

Defendants.

C.A. No. 1:19-CV-12242-WGY

JOINT STATEMENT

Plaintiffs American Civil Liberties Union (“ACLU”) and American Civil Liberties Union of Massachusetts (“ACLUM”) (collectively, the “Plaintiffs”) and Defendants United States Department of Justice (“DOJ”), Federal Bureau of Investigation (“FBI”), and Drug Enforcement Administration (“DEA”) (collectively, the “Defendants”) hereby submit this joint statement and proposed schedule for the litigation.

This is a FOIA case arising from a request for records submitted by the Plaintiffs to the Defendants on January 18, 2019. *See* Complaint (D.E. 1) ¶23 & Ex. A. The parties previously conferred regarding the proposed schedule for the initial phase of this litigation. The parties jointly proposed, and the Court adopted, the following schedule:

- February 17, 2020: DEA produces all responsive records;
- March 16, 2020: FBI begins rolling production of responsive records; and
- May 15, 2020: Parties submit status report and updated scheduling proposal, including proposed deadline for FBI to complete production of records.

DEA has completed its intended production, and Plaintiffs are reviewing those records. After an initial production, FBI was delayed in making further productions due to logistical difficulties arising from the coronavirus pandemic. FBI subsequently made productions dated June 30, July 29, and August 28.

Counsel for the Defendants is currently inquiring with the FBI concerning the volume of potentially responsive records that remain for review and potential production. Based on that information, the parties anticipate that the Court will be in a position at the status conference to set a schedule for the completion of the Defendants' productions, for the parties to then confer regarding any disputes concerning the adequacy of the search or the scope of any redactions or withholding, and, to the extent such disputes cannot be resolved by agreement, for the filing of dispositive motions.

Dated: September 1, 2020

Respectfully submitted,

FOR THE PLAINTIFFS,

FOR THE DEFENDANTS:

/s/ Daniel L. McFadden
David Glod, BBO# 676859
Nathaniel C. Donohue, BBO# 694274
Rich May, P.C.
176 Federal Street, 6th Floor
Boston, MA 02110
(617) 556-3800
dglod@richmaylaw.com
ndonoghue@richmaylaw.com

Matthew R. Segal (BBO #654489)
Daniel L. McFadden (BBO #676612)
American Civil Liberties Union
Foundation of Massachusetts, Inc.
211 Congress Street
Boston, MA 02110
(617) 482-3170
msegal@aclum.org
dmcfadden@aclum.org

ANDREW E. LELLING
United States Attorney

By: /s/ Susan M. Poswistilo
SUSAN M. POSWISTILO
Assistant U.S. Attorney
John J. Moakley Federal Courthouse
One Courthouse Way, Ste. 9200
Boston, MA 02210
(617) 748-3103
susan.poswistilo@usdoj.gov

Brett Max Kaufman *
Nathan Freed Wessler * (BBO #680281)
American Civil Liberties Union Foundation
125 Broad Street, 18th Floor
New York, NY 10004
(212) 549-2500
bkaufman@aclu.org
nwessler@aclu.org

*admitted *pro hac vice*